

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement
Portions of AB 117 Concerning Community
Choice Aggregation.

Rulemaking 03-10-003
(Filed October 2, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING THE NOTICES OF INTENT
TO CLAIM COMPENSATION
OF THE UTILITY REFORM NETWORK AND LOCAL POWER**

I. Summary

This ruling responds to the notices of intent (NOIs) filed by Local Power on December 1, 2003, and The Utility Reform Network (TURN) on November 24, 2003. This ruling addresses the requirements of the Pub. Util. Code § 1804.¹ In consultation with the Assigned Commissioner, I find that Local Power and TURN are eligible for compensation in this proceeding. No party opposed such a finding. A finding of eligibility for compensation does not guarantee an award of compensation. Local Power and TURN should not duplicate other parties' efforts in this proceeding. Duplication may result in a reduction in the amount of compensation ultimately awarded.

¹ All statutory references are to the Public Utilities Code.

II. NOI Requirements

A. Timely Filing

Under § 1804(a)(1), “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.”

The first prehearing conference in this proceeding occurred on November 19, 2003. Both Local Power and TURN filed their NOIs within 30 days of that date as required.

B. Customer Status

Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), and whether the intervenor is 1) a participant representing consumers, 2) a representative authorized by a customer, or 3) a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.²

1. Local Power

Local Power meets the second definition of customer, as set forth in § 1802(b). Local Power is authorized to represent and advocate the economic and environmental interests of Dominique Parducci, a low-income customer of Pacific Gas and Electric Company. Local Power also states it is qualified to represent

² “When filing its Notice of Intent, a participant should state how it meets the definition of customer: as a *participant* representing consumers, as a *representative* authorized by a customer, or as a representative of a *group or organization* that is authorized by its bylaws or articles of incorporation to represent the interests of residential customers.” D.98-04-059, *mimeo.*, at 28-29 (emphasis in original).

consumer interests in this proceeding because it has expertise on all issues relevant to this proceeding and worked on the drafting of Assembly Bill 117.

2. TURN

TURN meets the third definition of customer, as set forth in § 1802(b): it is a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.³ TURN is organized to represent and advocate the interests of consumers of public utility services in California. TURN qualifies as a customer because it is an organization authorized by its articles of incorporation to represent the interests of consumers, a portion of which are residential customers.

C. Significant Financial Hardship

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Section 1802(g) defines “significant financial hardship”:

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the

³ D.98-04-059 directed intervenors either to file their articles of incorporation/bylaws with the NOI, or to provide a reference to a previous filing. D.98-04-059, *mimeo.*, at 30. TURN chose the latter alternative, referring to articles of incorporation it filed with its NOI in Application (A.) 98-02-017 and A.99-12-024. TURN has approximately 30,000 dues paying members, the majority of whom it believes to be residential ratepayers. TURN does not poll its members to determine whether they are residents or small businesses, so no percentage split is available as required by D.98-04-059, Finding of Fact 12.

case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding. Alternatively, the customer may make the required showing in the request for an award of compensation.

1. Local Power

Local Power states its client, Ms. Parducci, cannot afford to hire experts to represent her interests in this proceeding without suffering significant financial hardship. Local Power has made a reasonable showing that its client may suffer significant financial hardship if she were to participate in this proceeding. If Local Power ultimately requests compensation in this proceeding, however, the Commission may seek documentation to support Local Power's assertions regarding Ms. Parducci's financial status.

2. TURN

The Commission may make a rebuttable presumption of eligibility if the Commission has found in any other docket, and within the previous 12 months, that the organization in question will suffer significant financial hardship. A rebuttable presumption of eligibility exists for TURN. On March 25, 2003, Administrative Law Judge (ALJ) Karl Bemederfer issued a ruling in A.02-07-050 finding that TURN had made a showing of significant financial hardship, had met the requirements of § 1804(a), and was eligible for compensation in that proceeding. This proceeding commenced on October 2, 2003, within one year of ALJ Bemederfer's March 25, 2003 ruling. A rebuttable presumption exists that TURN is eligible for compensation in this proceeding.⁴

⁴ § 1804 (b)(1).

D. Nature and Extent of Planned Participation

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted.

1. Local Power

Local Power expects to participate actively in this proceeding on topics relating to CCA experiences in other states, barriers to economic bypass, integrated resource planning and environmental justice. Local Power states that to the extent possible, it will coordinate its participation with other parties to avoid duplication and complement the work of others.

2. TURN

TURN states its intent to participate in all aspects of this proceeding, to submit testimony, conduct discovery, participate in workshops and hearings, and file relevant pleadings. TURN intends to coordinate, as much as possible, with other parties to avoid duplication of effort.

E. Itemized Estimate of Compensation

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive.

1. Local Power

Local Power estimates a total projected budget of \$47,000 for this case. The estimate breaks down as follows:

Amount	Description
Fees	
\$30,000	200 hours of director's time at \$150/hour
\$10,000	40 hours of attorney time at \$250/hour
\$3,000	20 hours of consultant time \$150/hour
\$3,000	40 hours of paralegal time at \$75/hour
\$1,000	Direct expenses (postage, copying, travel, etc.)
\$47,000	Total

Local Power satisfactorily presents an itemized estimate of the compensation it expects to request. Local Power must fully support its request for compensation, including the reasonableness of the hours spent and hourly rates.

2. TURN

TURN estimates a total projected budget of \$113,000 for this case, based on proposed hourly rates that TURN will address in its request for compensation. The estimate breaks down as follows:

Amount	Description
Fees	
\$12,500	50 hours of attorney at \$250/hour
\$10,875	25 hours of attorney time at \$435/hour
\$625	Direct costs
\$24,000	Total

TURN satisfactorily presents an itemized estimate of the compensation it expects to request. TURN must fully support its request for compensation, including the reasonableness of the hours spent and hourly rates.

IT IS RULED that:

1. The Local Power has met the eligibility requirements of Pub. Util. Code § 1804(a), including the requirement that it establish significant financial hardship, and Local Power is found eligible for compensation in this proceeding.
2. The Utility Reform Network (TURN) has met the eligibility requirements of Pub. Util. Code § 1804(a), including the requirement that it establish significant financial hardship, and TURN is found eligible for compensation in this proceeding.
3. Local Power is a customer as that term is defined in § 1802(b) and represents a Pacific Gas and Electric Company customer.
4. TURN is a customer as that term is defined in § 1802(b) and is a group or organization that is authorized to represent the interests of residential ratepayers.

Dated December 4, 2003, at San Francisco, California.

/s/ KIM MALCOLM
Kim Malcolm
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding the Notices of Intent to Claim Compensation of The Utility Reform Network and Local Power on all parties of record in this proceeding or their attorneys of record.

Dated December 4, 2003, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.